

M I N U T E S
REGULAR MEETING
CHARTER COMMISSION
Wednesday, November 5, 2003

Commissioners Present: Masica, Leitschuh, Rhodes, Theurer, Fraser, Bernstein, Dolan, Thaden, Clegg, Collier, Lazarus, Metge (Quorum: 8)

Excused: Bester, Dziedzic

Also present: Joe LaBat, Assistant City Attorney

The meeting was called to order by Vice Chair Rhodes, in the absence of Chair Bester, at 4:03 p.m. in the Council Chamber, Room 317 City Hall, Minneapolis, MN.

Collier moved that the subject matter of Chair Bester's residency be considered later in the meeting when more Council Members are present. Seconded.
Adopted by unanimous consent.

Bernstein moved that the agenda be amended to transpose Items 5 and 12 on the agenda, and to adopt the agenda, as amended. Seconded.
Adopted upon a voice vote.

Dolan moved approval of the October 1, 2003, Minutes. Seconded.
Adopted upon a voice vote.

5. Proposed Charter Amendment: Request by Bert Black, former Charter Commissioner, for amendment relating to the timing of the next election for City Council Members (Postponed 10/1/03)

Also present: Representative Phyllis Kahn and former Alderman Mark Kaplan.

Bert Black stated that he, along with Representative Kahn and others citizens of Minneapolis, are plaintiffs in a lawsuit against the City of Minneapolis based upon the Council Member election of 2001. They allege that those elections are basically an unfair representation for Minneapolis citizens because they are based on the ward lines drawn in response to the 1990 census. He stated that the Charter needs to be amended in order to create a resolution at the local level through the Charter mechanism. A similar situation will occur in 2020 and each succeeding 20-year period.

He requested that the Charter Commission approve submission of the proposed amendment to Chapter 1, Section 3, Paragraph F of the Minneapolis City Charter to the City Council requesting adoption by a 13-0 vote.

Black stated that he is suggesting that Council Members stand for election on ward boundaries adopted by the Redistricting Commission in 2002 within 90 days of adoption of this Charter amendment for the remainder of the term for which elections were held in 2001. He suggested use of redistricting funds that were approved in 2002 for an election as a solution to the lawsuit presently before a Federal Judge.

Black reported that he has not talked to the Mayor or Council Member about this proposed Charter amendment. They have worked toward a legislative solution to this issue through the 2002 and 2003 sessions with legislation being passed by the Minnesota House in both those years.

Collier moved approval to refer this issue to the City Council requesting a 13-0 vote.

Thaden recommended referring this issue to Commissioner Melendez who has been assigned to consider this subject matter.

Clegg seconded Collier's motion. He lives in a neighborhood affected by the new ward boundaries.

Collier stated that Commissioner Melendez is working on cleaning up the language in the Charter with amendments to be considered later.

Fraser suggested an amendment to Collier's motion to insert "but not sooner than 60 days" after "within 90 days". This would create a window between 60 and 90 days.

LaBat reported that when an amendment to the Charter is adopted by a 13-0 vote, it does not go into effect for 90 days. An election could not take place within 90 days because the amendment would have no effect. If an amendment is adopted by a 13-0 vote, within 60 days a petition can be filed by the public to call for a special election challenging such an amendment.

Black stated that it is not his intent to call for an election within the first 10 days after adoption. He suggested to Collier that her motion be amended to state "within 90 days but no earlier than 60 days after the effective date of this Charter amendment".

Collier amended her motion to add "but not sooner than 60 days" and to strike the word "adoption" and substitute "effective date".

LaBat stated that this body has the ability to forward any amendment or suggestion for amendment to the Council at any time whether or not it is being considered by a subcommittee of this Commission.

Thaden recommended postponing this issue.

Thaden requested a roll call vote on Collier's motion.

Adopted. Yeas, 8, Nays, 4 as follows:

Yeas - Masica, Leitschuh, Rhodes, Fraser, Bernstein, Dolan, Clegg, Collier.

Nays - Theurer, Thaden, Lazarus, Metge.

The Commissioners voting "aye" were asked to sign the transmittal document.

6. Charter Commission Rules: Consider adoption of amendments to the Rules submitted by the Rules Committee

Lazarus reported that the comments submitted by Commissioner Melendez have been incorporated into the proposed Rule and Fraser has submitted proposed amendments. He recommended adoption at the next Charter Commission meeting after integration of the most recent comments.

Bernstein requested a discussion on the issue of residency and granting a leave of absence for Commissioners.

Lazarus reported that the proposed Rules have a system for providing for an excused absence. He believes that language is sufficient.

LaBat reported that the qualifications for office to be a Commissioner of a Charter Commission is prescribed by Minnesota State Statute. If additional qualifications are proposed, that must be taken to the legislature. He recommended against defining what a freeholder is different from the meaning in the Statutes. Residency isn't mentioned in the Statutes; being a freeholder or registered voter is. If you wish to check the residency of a Commissioner, he recommends that you request that information from the Director of Elections. To be a registered voter, you must live in the city. The Commission does not have the power to super refine what the Statutes mean. Judicial officers are specifically disqualified from being on the Commission. The Charter Commission is a body controlled by State Statutes and appointments are made by a State officer.

Lazarus will provide a revised black line version of the proposed Rules. He requested that Assistant City Attorney LaBat review the proposed Rules before adoption.

Collier believes we have to assume that the qualification for residency would be established by the Chief Judge at the time appointments to the Charter Commission are made. The issue is what happens in the interim of the four-year term.

LaBat stated that the Commission may take action to communicate to the Hennepin County Chief Judge when it is believed that a sitting Commissioner is not longer qualified to hold the office based on his or her no longer being a qualified voter of the City of Minneapolis under Minnesota Statutes, Chapter 410.

Lazarus asked if the Commissioners are recommending including a provision in the Rules relating to removal of a Commissioner.

Clegg responded that he believes we don't need such a provision.

Lazarus moved to postpone adoption of the revised Rules. Seconded.
Adopted by unanimous consent.

7. Articles Committees: Updates on amendments to Articles -

Articles I and II: *Bernstein, Lazarus, Thaden*

Articles III and IV: *Masica, Collier, Clegg*

Articles V and VI: *Theurer, Metge, Dolan*

Articles VII and VIII: *Dziedzic, Bester, Rhodes, Leitschuh, Fraser*

Rhodes reported that, with the exception of VII and VIII, all committees have completed their assignment. Articles VII and VIII will be considered at the December meeting.

8. Editing Committee: Update (*Dziedzic, Clegg, Lazarus, Bernstein*)

Clegg was asked to contact Commissioner Dziedzic about editing Articles I through VI and report back at the December meeting.

9. Outside Readers: Update on the Outside Readers (*Melendez*)

In the absence of Commissioner Melendez, this issue will be considered at the December meeting.

10. Informational contacts with Council Members and Mayor: Report by Commissioners on contacts completed after October 1 meeting

Ward 2 - Fraser

Ward 10 - Thaden

Ward 11 - Theurer

Ward 13 - Collier

Fraser contacted Council Member Paul Zerby who supports this effort.

Thaden contacted Council Member Niziolek who supports this effort.

Theurer contacted Council Member Benson who is very supportive of the process and would like the Commission to consider significant changes to the structure as well.

Collier contacted Council Member Lane who supports this effort.

Metge contacted Council Members Zimmermann and Lilligren. Zimmermann was extremely supportive of the process; Lilligren recommended a study session.

11. Amendment to Charter by Referendum: Update by Assistant City Attorney LaBat on staff direction submit letter to Aaron Marcus, President, Citizens Organized for Harm Reduction, with a response from this Commission relating to his proposed Charter amendment.

LaBat stated that he was asked to write the letter to Aaron Marcus. He recommends that, in the future, letters from the Commission be signed by a Commissioner.

12. Residency requirement for Commissioners: Response to inquiry on Chair Bester's residency.

The clerk read an e-mail from Commissioner Bester requesting continuation of his leave from the Charter Commission until the end of November due to unresolved circumstances. He apologized for the inconvenience placed on the staff and his colleagues.

Collier stated that this Commission needs a Chair to help lead us through all the Charter changes.

Lazarus moved to request a resignation by Bester as Chair of the Charter Commission and to let Bester decide, with his own conscience being his guide, whether he should resign as a Commissioner. Seconded.

Maseca reported that election of officers takes place in January of 2004. He recommended that the Vice Chair continue to serve in the absence of Bester until that election.

Metge and Fraser concurred with Maseca's recommendation.

Rhodes concurred and stated that the Commission has continued to take care of business with the remainder of the Commissioners.

Lazarus' motion lost. Ayes, 5; Nays, 7 as follows:

Ayes - Theurer, Bernstein, Dolan, Collier, Lazarus

Nays - Masica, Leitschuh, Rhodes, Fraser, Thaden, Clegg, Metge.

13. Council Study Session: Proposed revisions to the City Charter presented to the City Council Members on February 20, 2004, at 9:30 a.m.

The clerk stated that Melendez spoke to Council President Ostrow about having a City Council Study Session to present the proposed Charter amendments. That Study Session has been scheduled.

Fraser moved to adjourn. Seconded.
Adopted.

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